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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

XINQUAN WANG and FEI LI,

Plaintiffs,

v.

MICHAEL CHERTOFF, as Secretary of
 U.S. Department of Homeland Security;
 EMILIO T. GONZALES, as Director of
 U.S. Citizenship and Immigration Services;
 ROBERT S. MUELLER, III, as Director of
 Federal Bureau of Investigation,

Defendants.

No. C 07-5247 JW

**STIPULATION TO DISMISS; AND
 [PROPOSED] ORDER**

Plaintiffs, appearing pro se, and Defendants by and through their attorney of record, hereby stipulate, subject to the approval of the Court, to dismissal of the action based on the following:

1. Plaintiffs filed a Form I-485 application to adjust their status to lawful permanent resident with the United States Citizenship and Immigration Services (USCIS) on or about September 22, 2005.

2. Plaintiffs' name checks are completed.

3. Plaintiff Xinquan Wang and his derivative spouse, Fei Li's adjustment of status applications are based on a Form I-140 visa petition for immigrant worker filed by Mr. Wang. The Form I-140 visa petition was approved on March 1, 2006, in the second preference employment category for

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1 advanced degree professionals.

2 4. The priority date for visa number purposes in Plaintiffs' case is the date Plaintiff Wang's
3 visa petition was filed with USCIS: September 22, 2005.

4 5. The State Department's Visa Bulletin for December 2007, January 2008 and February 2008
5 indicates that the visa numbers for second preference workers from China is January 1, 2003.

6 6. Since Plaintiffs' priority date is September 22, 2005, the USCIS will not be able to
7 complete Plaintiffs' applications until a visa number becomes available to them.

8 7. Therefore, the parties stipulate to dismiss the case on the condition that USCIS will
9 adjudicate Plaintiffs' case within 30 days once the visa number becomes available.

10 8. Each of the parties shall bear their own costs and fees.

11 Dated: February 4, 2008

Respectfully submitted,

12 JOSEPH P. RUSSONIELLO
13 United States Attorney

14
15 /s/
ILA C. DEISS
16 Assistant United States Attorney
Attorney for Defendants

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18 Dated: February 4, 2008

19 /s/
XINQUAN WANG
FEI LI
20 Pro se

21 **ORDER**

22 Pursuant to stipulation, IT IS SO ORDERED.

23 The Court terminates all pending hearings, deadlines and motions. The Clerk shall close this file.

24 Date: February 8, 2008

25 James Ware
JAMES WARE
26 United States District Judge
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